



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/818,999	03/28/2001	Norbert Egger	66775-002-7	9755

25269 7590 04/05/2005

DYKEMA GOSSETT PLLC
FRANKLIN SQUARE, THIRD FLOOR WEST
1300 I STREET, NW
WASHINGTON, DC 20005

EXAMINER

NGUYEN, TAM M

ART UNIT	PAPER NUMBER
----------	--------------

3764

DATE MAILED: 04/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

4)

Office Action Summary	Application No.	Applicant(s)	
	09/818,999	EGGER, NORBERT	
	Examiner	Art Unit	
	Tam Nguyen	3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) 6-8,10-31,34-39 and 41 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 40 is/are allowed.
- 6) ☒ Claim(s) 33,42-45 and 49-52 is/are rejected.
- 7) ☒ Claim(s) 1-5,9,32 and 46-48 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-5, 9, 32, 42 and 44-52 are objected to because of the following informalities:

Claim 1, line 2, delete "the skin of a person" and insert --a person's skin--.

Claim 1, line 4, after "person," insert --the person inherently having a body weight and--.

Claim 1, line 6, delete "the tight" and insert --a tight--.

Claim 1, line 8, delete "the production of a differential pressure" and insert --producing differential pressure--.

Claim 1, line 9, delete "device" and insert --pressure device--.

Claim 3, line 3, delete "throughput through" and insert --pressure throughout--.

Claim 4, delete lines 2 and 3 and insert --pressure device provides a reduction in pressure from 0.02 bar to 0.2 bar--.

Claim 5, delete lines 2 and 3 and insert --pressure device provides a reduction in pressure from 0.05 bar to 0.15 bar--.

Claim 32, line 2, delete "the skin of a person" and insert --a person's skin--.

Claim 32, line 7, delete "the ambient pressure" and insert --ambient pressure--.

Claim 32, line 14, delete "the body weight of said person" and insert --said person's body weight--.

Claim 32, line 16, insert --person's-- before "legs".

Claim 42, line 2, delete "the skin of a user" and insert --a user's skin--.

Claim 42, line 6, delete "the tight" and insert --a tight--.

Claim 42, line 7, delete "the production of a differential pressure" and insert --producing differential pressure--.

Claim 42, line 11, delete "the body weight off the user's legs" and insert --user's body weight of said legs--.

Claim 44, line 1, delete "according to claim 42" and insert --according to claim 43--.

Claim 45, line 3, delete "throughput through" and insert --pressure throughout--.

Art Unit: 3764

Claim 46, line 1, delete "the skin of a user" and insert --a user's skin--.

Claim 46, line 6, delete "the tight" and insert --a tight--.

Claim 46, line 7, delete "the production of a differential pressure" and insert --producing differential pressure--.

Claim 46, line 11, delete "the body weight off the user's legs" and insert --user's body weight of said legs--.

Claim 48, delete lines 2 and 3 and insert --pressure device provides a reduction in pressure from 0.02 bar to 0.05 bar--.

Claim 49, line 1, delete "the skin of a user" and insert --a user's skin--.

Claim 49, line 6, delete "the tight" and insert --a tight--.

Claim 49, line 7, delete "the production of a differential pressure" and insert --producing differential pressure--.

Claim 49, line 11, delete "the body weight off the user's legs" and insert --user's body weight of said legs--.

Claim 50, line 3, delete "throughput through" and insert --pressure throughout--.

Claim 51, delete lines 2 and 3 and insert --pressure device provides a reduction in pressure from 0.02 bar to 0.05 bar--.

Claim 52, line 1, delete "the skin of a user" and insert --a user's skin--.

Claim 52, line 6, delete "the tight" and insert --a tight--.

Claim 52, line 7, delete "the production of a differential pressure" and insert --producing differential pressure--.

Claim 52, line 11, delete "the body weight off the user's legs" and insert --user's body weight of said legs--.

Claims 2, 9, 43 and 47 are also objected to for being dependent on an objected claim.

Appropriate corrections are required to provide proper antecedent basis and to further clarify the subject matter.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 33, 42-45 and 49-52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

2. Claim 33 recites the limitation "the pressure" in lines 8-9. There is insufficient antecedent basis for this limitation in the claim.

3. The subject matter of the last three lines of claim 42 is unclear. Does applicant intend to say that the air pressure constantly switches between a low pressure and a high pressure when the pressure reaches a low of 0.02 and a high of 0.05 bar? Or that the pressure increases when the air pressure drops down to a low range between 0.02 to 0.05 bar? Claims 43-45 are also rejected for being dependent on a rejected base claim.

4. Claims 49 and 52 recite the limitation "the internal switching" in line 13 and 16 respectively. There is insufficient antecedent basis for this limitation in each claim. Claims 50 and 51 are also rejected for being dependent on a rejected base claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 33 is rejected under 35 U.S.C. 102(b) as being anticipated by Whalen et al. (5,133,339).

5. Whalen et al. disclose a method for exercise as substantially claimed (see ABSTRACT).

Art Unit: 3764

Allowable Subject Matter

6. Claim 40 is allowed.
7. Claims 1-5, 9, 32 and 46-48 are objected to, but would be allowable if corrected as suggested by the Examiner.

Conclusion

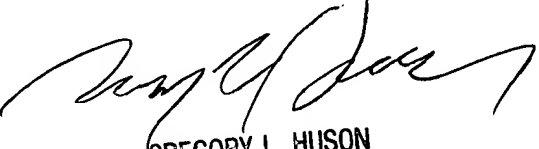
8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tam Nguyen whose telephone number is 571-272-4979. The examiner can normally be reached on M-F, 9-5.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 31, 2005


GREGORY L. HUSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700